

**APPLICATION FOR VOLUNTARY DISCLOSURE**

Although your retail business is located outside of California, you may be required to collect and report California use tax when you make sales of tangible personal property that is used, stored, or otherwise consumed in this state. You are required to collect and pay the tax if you are "engaged in business" in California as defined in California Revenue and Taxation Code section 6203, "Collection by retailer" (see reverse).

The Board of Equalization (Board) has established a voluntary use tax liability disclosure program for out-of-state retailers who wish to acknowledge their liability for California use tax. By voluntarily registering with the Board under this program, you may be able to limit your liability for tax, penalties, and interest due for prior periods. Ordinarily, if you did not file a return, the Board can send you a bill ("deficiency determination") for the amounts owed as late as eight years and one month after the quarterly period in which the sales were made. However, if you qualify for the voluntary disclosure program, the billing period is limited to three years and one month (see "Deficiency determinations; unregistered out-of-state retailers" [Revenue and Taxation Code, section 6487.05], on reverse). In addition you may be relieved of applicable penalties (see below).

Please complete this form if you wish to apply for the voluntary disclosure program. By completing and signing the form, you are representing that you:

- Are a retailer located outside California, with no location in this state, who has not previously registered with the Board.
- Are engaged in business in California as defined in Revenue and Taxation Code section 6203 (see reverse).
- Are voluntarily registering with the Board.
- Have not been contacted by the Board or its agents regarding your obligation to collect taxes as detailed in Revenue and Taxation Code section 6203.

In addition, by completing and signing this form, you are further representing that your previous failure to register with the Board, file returns, and pay tax was not due to negligence, intentional disregard of the law, or intent to evade the provisions of the California Revenue and Taxation Code.

The Board's Out-of-State District Office will contact you after receiving this completed form. Staff will complete your registration, obtain past sales information, and arrange for you to pay any tax, interest, or penalty due. You will be notified if you do not qualify for the voluntary disclosure program.

*Please complete the following information and return the application to the address printed below:*

BUSINESS NAME		SSN OR FEIN	
YOUR NAME		TYPE OF BUSINESS	
ADDRESS (street, city, state, zip code)			
PERIOD OPERATED IN CALIFORNIA			
From		To	
Month/Day/Year		Month/Day/Year	
TYPE OF OWNERSHIP			
<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Husband/Wife Partnership <input type="checkbox"/> Other			
DESCRIBE YOUR BUSINESS OPERATIONS IN CALIFORNIA:			

TELEPHONE NO.	AMOUNT OF TAX OWED
SIGNATURE	DATE

*Application for relief from penalty.* You may be relieved of certain penalties due if you failed to make a timely payment or file a return due to reasonable cause and circumstances beyond your control, which occurred despite your exercise of ordinary care and the absence of willful neglect. To seek such relief, you must file a statement, under penalty of perjury, setting forth the facts on which your claim for relief from penalty is based.

**MAIL TO: STATE BOARD OF EQUALIZATION, OUT-OF-STATE DISTRICT OFFICE, 3321 POWER INN ROAD, SUITE 130,  
P.O. BOX 188268, SACRAMENTO, CA 95818-0268, TELEPHONE (916) 227-6600, FAX (916) 227-6641.**

**California Revenue and Taxation Code (excerpts):****6487.05. Deficiency determinations; unregistered out-of-state retailers.**

(a) Notwithstanding Section 6487, the period during which a deficiency determination may be mailed to a qualifying retailer is limited to three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined. For purposes of this section, a "qualifying retailer" is a retailer that meets all of the following conditions:

(1) The retailer is located outside this state, and has not previously registered with the board.

(2) The retailer is engaged in business in this state, as defined in Section 6203.

(3) The retailer voluntarily registers with the board.

(4) The retailer has not been previously contacted by the board or its agents regarding the provisions of Section 6203.

(5) As determined by the board, the retailer's failure to file a return or failure to report or pay the tax or amount due required by law was due to reasonable cause and was not a result of negligence or intentional disregard of the law, or because of fraud or an intent to evade the provisions of this part.

(b) If the board or its designee finds that the retailer's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the retailer's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the retailer shall be relieved of the penalties imposed pursuant to this part. Any retailer seeking relief of penalty shall file a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

**History.—Added by stats. 1994, Ch. 903, in effect January 1, 1995.**

**6203. Collection by retailer**

(a) Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

(b) As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

(c) "Retailer engaged in business in this state" as used in this section and Section 6202 means and includes any of the following:

(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(3) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(4) Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this state.

(5) (A) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(B) This paragraph shall become operative upon the enactment of any congressional act that authorizes states to compel the collection of state sales and use taxes by out-of-state retailers.

(6) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section.

(7) Notwithstanding Section 7262, a retailer specified in paragraph (4), (5), or (6) above, and not specified in paragraph (1), (2), or (3) above, is a "retailer engaged in business in this state" for the purposes of this part and Part 1.5 (commencing with Section 7200) only.

(d) (1) For purposes of this section, "engaged in business in this state" does not include the taking of orders from customers in this state through a computer telecommunications network located in this state which is not directly or indirectly owned by the retailer when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists substantially of on-line communications services other than the displaying and taking of orders for products.

(2) This subdivision shall become inoperative upon the operative date of provisions of a congressional act that authorize states to compel the collection of state sales and use taxes by out-of-state retailers.

(e) Except as provided in this subdivision, a retailer is not a "retailer engaged in business in this state" under paragraph (2) of subdivision (c) if that retailer's sole physical presence in this state is to engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, and if the retailer, including any of his or her representatives, agents, salespersons, canvassers, independent contractors, or solicitors, does not engage in those convention and trade show activities for more than seven days, in whole or in part, in this state during any 12-month period and did not derive more than ten thousand dollars (\$10,000) of gross income from those activities in this state during the prior calendar year. Notwithstanding the preceding sentence, a retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a "retailer engaged in business in this state," and is liable for collection of the applicable use tax, with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

(f) The Legislature finds and declares that the deletion of language by the act adding this subdivision that was contained in paragraphs (5) and (8) of subdivision (c) is intended to codify the holdings of recent court cases.

**History.—Stats. 1998, Ch. 351 (AB 1614) in effect August 24, 1998, operative January 1, 1999.**